

**STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES  
OFFICE OF FINANCIAL AND INSURANCE SERVICES**

**Before the Commissioner of Financial and Insurance Services**

**In the matter of Advertising  
Contracts on a Variable Basis**

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**Order No. 02-006-M**

**Issued and entered  
this 12th day of February 2002  
by Frank M. Fitzgerald  
Commissioner**

**EXEMPTION ORDER**

Insurers are authorized to issue contracts on a variable basis. These contracts are defined in Section 925(2) of the Insurance Code of 1956 ("Code"), as amended, MCL 500.925(2):

“Contract on a variable basis” means a contract issued by an insurer providing for the dollar amount of benefits or other contractual payments or values thereunder to vary so as to reflect investment results of a segregated portfolio of investments or of a designated account in which amounts received in connection with such a contract have been placed and such other contracts as may be approved by the commissioner.

Section 2236 of the Code, MCL 500.2236, generally requires an insurer to file a contract on a variable basis for approval by the commissioner before using it in Michigan. However, that section also provides that the Commissioner may exempt a form from the filing requirements where the commissioner finds that the filing and approval are unnecessary for the protection of the public. By an order dated January 29, 1997, former Commissioner Olson exempted the filing and approval requirements as to contracts on a variable basis.

Advertising and illustrations respecting these contracts are governed by Rule 631 of General Rules, R 500.631 of the 1979 Administrative Code. Rule 631(1) provides:

Except as exempted in writing by the commissioner, an insurer which delivers or issues for delivery contracts on a variable basis shall file with the commissioner at least 30 days prior to use copies of advertising, illustrations and other printed materials to be used in connection with the sale of individual contracts on a variable basis in this state.

As with the underlying contracts, the requirement that insurers file copies of advertising, illustrations, and other printed materials respecting those contracts in advance of use is unnecessary for the protection of the public. It is therefore appropriate for the Commissioner to exempt these materials from such filing. In light of this exemption, insurers will be expected to retain these materials in their records for one year after use. This will enable the Commissioner to inspect them selectively as needed.

Therefore, it is ORDERED that insurers are exempted from the filing requirements of Rule 631(1).

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Frank M. Fitzgerald  
Commissioner